

14 November 2022

General Manager
Policy Development
Policy and Advice Division
Australian Prudential Regulation Authority

Via email: superannuation.policy@apra.gov.au

Dear Sir/Madam

Strategic planning and member outcomes: Proposed enhancements

CPA Australia and Chartered Accountants Australia and New Zealand (CA ANZ) represent over 300,000 professional accountants globally. Our members work in diverse roles across public practice, commerce, industry, government and academia throughout Australia and internationally.

This submission contains feedback in response to the discussion paper *Strategic planning and member outcomes: Proposed enhancements* dated August 2022. The discussion paper contains questions designed to inform the prudential framework around *Prudential Standard SPS 515 Strategic Planning and Member Outcomes* (SPS 515) and its associated guidance, which were introduced in 2020.

CA ANZ and CPA Australia generally welcome the proposed focus of this review by the Australian Prudential Regulation Authority (APRA) on simplification, cohesiveness, integration with other prudential requirements, improved outcomes orientation, and degree of understandability and navigability. Our comments in this submission are at a high level and will not respond to each of the questions in the discussion paper.

Throughout this submission, we have followed the convention used by the discussion paper in referring to the prudential framework around SPS 515 as the “SPS 515 framework”. The SPS 515 framework also includes *Prudential Practice Guide SPG 515 Strategic and Business Planning* (SPG 515) and *Prudential Practice Guide SPG 516 Business Performance Review* (SPG 516).

Chapter 2 – Clearly defining outcomes for members

Enhancements proposed in Chapter 2 of the discussion paper include requirements that trustee Boards’ approved outcomes must be quantifiable and objective, and apply to either all beneficiaries or specified cohorts identified by RSE licensees. It also includes requirements for RSE licensees to understand why they have chosen specific cohorts as reasonable; and ensure that cohorts identified are suitable for RSE licensees’ requirements in respect of their retirement income strategy.

CPA Australia and CA ANZ support the commitment proposed by APRA in respect of better guidance around identification of cohorts. In particular, we consider that comprehensive assistance to RSE licensees will provide better results when identifying cohorts for the purposes of executing a fund's retirement income strategy. We also believe that it will provide further clarity to trustees in relation to situations outside of regulatory and legislative requirements, such as examination of gender pay gap, disability and insurance matters and understanding the needs of members in non-standard employment situations.

However, we re-iterate concerns raised by us in previous submissions to APRA and Treasury in relation to the retirement income covenant. In our opinion the majority of the requirements introduced in relation to this covenant were already requirements in other parts of the legal framework around superannuation. We urge caution in specifying requirements which magnify the need for RSE licensees to work on matters outside of the traditional role of a trustee.

Chapter 3 – Soundly run business

Chapter 3 of the discussion paper considers proposals to better specify, monitor and stress test financial performance measures, action plans, objectives, strategic goals and target outcomes for members. Chapter 3 also proposes to lift trustee Board understanding of financial projections and fee-setting principles, and flags consideration by APRA of future consultation around expenditure management in 2023.

CA ANZ and CPA Australia provide no comments in relation to the proposals around managing financial resources and understanding financial projections, other than to note these proposals are reasonable.

However, we consider that proposals in relation to fee-setting principles could be an opportunity for RSE licensees to understand fees being charged to investments by third parties which are not negotiated directly by trustees. For example, Real Estate Investment Trusts (REITs) may be used as part of a strategy involving listed property. However, whilst investment management fees of such investment vehicles may not be required to form part of fee and cost disclosure required of superannuation funds as described in *Regulatory Guide 97 Fee and Cost Disclosure* (RG 97), we consider that where this information is known, RSE licensees should be required to consider this as part of their fee-setting process.

We also welcome APRA's comments in relation to ensuring that fees should not be a 'race to the bottom' as improved outcomes to members should be the focus. We expect, in this light, a focus on net returns by APRA to be the context in which fee-settings should be examined.

CPA Australia and CA ANZ look forward to the consultation on expenditure management, to be undertaken in 2023. Whilst we are aware that the Your Future Your Super (YFYS) review is presently examining the impact of the Best Financial Interests Duty (BFID), we point out that with the reverse burden of proof and the absence of materiality thresholds contained in that policy, the impact of all expenditure decisions made by trustees has far reaching impacts, including in relation to non-arm's length income and expenditure (NALI/E). Alternative approaches to this problem urgently require consideration and guidance from APRA. In particular, the matter of which law is applied first: the NALI/E rules or BFID?

Chapter 4 – Assessment of performance

APRA proposes to enhance the SPS 515 framework to require RSE licensees to better understand and quantify the factors driving performance and how planned actions impact these factors. The proposals also consider a trigger framework for formal review, guidance around circumstances requiring review of the business plan (including failure of the legislated performance test) and integration of funds' business performance reviews with other actions required under the prudential framework.

CA ANZ and CPA Australia note that parts of the proposals included in this chapter are already being examined as part of the YFYS review. We have written at length about the problems faced by funds whose performance test is affected by the use of inappropriate benchmarks. We have raised our concerns at every step of consultation in relation to the legislation of performance test treatment of faith-based products, as well as in our submission to the YFYS review. Whilst we provide no views in relation to performance benchmarks used by APRA in consideration of non-investment-based performance measures, we recommend that consultation in relation to investment performance-related benchmarks are deferred until the outcomes of the YFYS review are available.

Chapter 5 – Take meaningful action

CPA Australia and CA ANZ note the proposed consultations in this chapter related to transfer of members, contingency planning and successor fund transfers. We plan to respond to these when they are undertaken and have no comments at this stage.

For further information in relation to our submission, please contact Richard Webb, Policy Advisor Financial Planning and Superannuation at CPA Australia at richard.webb@cpaaustralia.com.au or Tony Negline, Superannuation and Financial Services Leader at Chartered Accountants ANZ at Tony.Negline@charteredaccountantsanz.com.